

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALAN MILLS,

Plaintiff,

V.

NOAH ZEICHNER,

Defendant.

CASE NO. C23-1130JLR

## ORDER

Before the court is *pro se* Plaintiff Alan Mills’s motion for reconsideration of the January 17, 2024 order granting Defendant Noah Zeichner’s motion for judgment on the pleadings and denying Mr. Mills’s motions for partial summary judgment and to quash a subpoena directed to non-party Martin Floe in contempt of a subpoena. (Mot. (Dkt. # 69); *see also* January 17, 2024 Order (Dkt. # 67).) Mr. Mills also asks the court to amend its January 17, 2024 order to correct supposed errors and to grant him leave to amend the complaint to incorporate “new laws and facts.” (Mot. at 5, 13.) Having reviewed the motion, the

## ORDER - 1

1 relevant portions of the record, and the governing law, the court DENIES Mr. Mills's  
2 motion for reconsideration.

3 "Motions for reconsideration are disfavored," and the court "will ordinarily deny  
4 such motions in the absence of a showing of manifest error in the prior ruling or a  
5 showing of new facts or legal authority which could not have been brought to its attention  
6 earlier with reasonable diligence." Local Rules W.D. Wash. LCR 7(h)(1).

7 "Reconsideration is an extraordinary remedy," and the moving party bears a "heavy  
8 burden." *Kona Enters., Inc. v. Est. of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). The  
9 court concludes that Mr. Mills has not met his heavy burden to demonstrate that the court  
10 must reconsider its prior order.

11 Mr. Mills identifies many supposed errors in the court's January 17, 2024 order.  
12 For example, Mr. Mills argues the court erred in declining to take judicial notice of  
13 certain documents, including affidavits of his wife and daughter, A.K., as well as emails  
14 between Mr. Zeichner and various nonparties. (Mot. at 4-5; *see also* MJP Resp. (Dkt.  
15 # 62) at 8-10.) Mr. Mills asserts these documents are not subject to reasonable dispute  
16 because he attached "true and correct copies of the documents." (*Id.* at 4.) Mr. Mills  
17 misunderstands the types of facts and documents that are ordinarily suitable for judicial  
18 notice. The Federal Rules of Evidence authorize the court to "judicially notice a fact that  
19 is not subject to reasonable dispute because it (1) is generally known within the trial  
20 court's territorial jurisdiction; or (2) can be accurately and readily determined from  
21 sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b); *see*,  
22 *e.g.*, *Brown v. Piper*, 91 U.S. 37, 42 (1875) (stating that courts may take judicial notice of

1 universally known facts such as “the law of nations,” “the notary’s seal,” “the  
2 coincidences of the days of the week with those of the month,” “the election and  
3 resignations of senators,” and “the boundaries of the several States and judicial  
4 districts”); *Interstate Nat. Gas Co. v. So. Cal. Gas. Co.*, 209 F.2d 380, 385 (9th Cir. 1953)  
5 (judicially noticing “records and reports of administrative bodies”); *Khoja v. Orexigen*  
6 *Therapeutics, Inc.*, 899 F.3d 988, 1001-02 (9th Cir. 2018) (affirming judicial notice of  
7 patent application published by a foreign government agency). Cf. *United States v.*  
8 *Cerda-Ramirez*, 730 Fed. App’x 449, 452 (9th Cir. April 19, 2018) (reversing judicial  
9 notice of affidavit filed in a separate case that contained facts subject to reasonable  
10 dispute); *Holy Ghost Revival Ministries v. City of Marysville*, 98 F. Supp. 3d 1153, 1163  
11 (W.D. Wash. 2015) (Robart, J.) (declining to take judicial notice of emails). Although  
12 Mr. Mills attests to the authenticity of the documents, those documents nonetheless  
13 contain facts that are not generally known and instead are subject to reasonable dispute,  
14 making them inappropriate for judicial notice. See Fed. R. Evid. 201(b). (Compare Mills  
15 Decl. (Dkt. # 70) ¶ 1, Ex. A at 2-3 (A.K. declaring that Mr. Zeichner “was very active in  
16 his role of organizing the club and communicating on the team’s behalf”), with Am.  
17 Answer (Dkt. # 29) ¶ 4.3 (Mr. Zeichner claiming he “maintained a limited role as a  
18 faculty/teacher adviser” and denying the allegation that he maintained “an active  
19 management role”).) The court did not err in declining to take judicial notice of Mr.  
20 Mills’s documents.

21 Mr. Mills next asserts that the court overlooked his arguments related to certain  
22 Washington regulations governing the professional conduct of education practitioners.

1 (Mot. at 5; *see also* MSJ Reply (Dkt. # 39) (arguing Mr. Zeichner violated WAC  
 2 181-87-060, WAC 181-87-050, and WAC 181-86-014); MJP Resp. at 24-25 (arguing Mr.  
 3 Zeichner violated WAC 181-87-050).) Mr. Mills appears to suggest that the cited  
 4 regulations constitute clearly established law for qualified immunity purposes, but this  
 5 argument fails. (Mot. at 9-10.) The qualified immunity analysis asks whether Mr.  
 6 Zeichner could have known based on clearly established law that his conduct would  
 7 violate Mr. Mills's constitutional rights in the manner alleged in the complaint—not  
 8 whether Mr. Zeichner could have known that his conduct might violate *any* law. The  
 9 court did not err with respect to the cited regulations.

10 Mr. Mills also claims the court overlooked other arguments related to qualified  
 11 immunity, but he fails to change the calculus on this issue. (Mot. at 7-9.) Mr. Mills still  
 12 does not cite any case with comparable facts in which the Ninth Circuit Court of Appeals  
 13 or the United States Supreme Court held that a teacher violated a parent's fundamental  
 14 right to direct the care, upbringing, and education of his child. (*See generally* Mot.) His  
 15 failure to do so is fatal to his Section 1983 claim. *See Chafer v. Cnty. of Santa Barbara*,  
 16 868 F.3d 1110, 1117-18 (9th Cir. 2017) (explaining that, to overcome qualified  
 17 immunity, Section 1983 plaintiffs must identify a factually analogous case in which a  
 18 government actor was held to have violated the plaintiff's constitutional rights in the  
 19 manner alleged); *White v. Pauly*, 580 U.S. 73, 79-90 (2017) (same).

20 The court has carefully reviewed the balance of the motion and determined that  
 21 none of Mr. Mills's remaining arguments justify reconsideration of the court's January  
 22 //

1 17, 2024 order. Accordingly, the court DENIES Mr. Mills's motion for reconsideration  
2 (Dkt. # 69) and the relief requested therein.

3 Dated this 2nd day of February, 2024.



4  
5 JAMES L. ROBART  
6 United States District Judge  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22